REMARKS

Claims 1, 3-12 and 14-15 are pending in the application.

Claims 1, 3-12 and 14-15 were rejected.

Claims1, 4, 12 and 15 are amended herein.

Claim 14 is cancelled.

I.   35 U.S.C. §102 Claim Rejections

Independent claim 1, along with dependent claims 3-4, 10 and 11 were rejected under 35 U.S.C. §102(e) as being anticipated by Torsner *et al.* (U.S. Patent No. 7,187,677). Independent claim 12, along with dependent claims 14-15 were rejected under 35 U.S.C. §102(e) as being anticipated by Chao (U.S. Patent No. 6,693,910). Independent claims 1 and 12 have been amended herein. The Applicant respectfully traverses these rejections and requests reconsideration thereof based on those amendments, and the arguments presented below.

The thrust of the invention here is a method for reducing the impact of stalling at a communications receiver due to the non-receipt, or delayed receipt of a packet expected by the receiver to be sent from a transmitting location. According to the method of the invention, a probability of a stalling condition occurring in respect to a given transmitted packet is determined, as a function of known system parameters – generally, amount of data being transmitted, number of retransmission requests from the receiver and transmission error probability. From that probability, a wait time is determined in respect to an expected event or response. If the event or response does not occur by the end of the wait time so determined, a signal is sent to the receiver that operates to terminate a stall condition occurring in respect to the transmitted packet.

With respect to the rejection of independent claim 1 as being anticipated by Torsner, the Applicant notes that claim 1 includes a limitation directed to the determination of the stall probability parameter described above, and respectfully submits that Torsner cannot reasonably be construed to teach any such probability determination. The particular portion of Torsner cited by the Office Action as supporting its conclusion that Torsner teaches this limitation (col. 3, lines 43-45) is merely a statement of the goal of Torsner's invention ("stall

avoidance") and a definition of what constitutes a stall condition for Torsner's approach. At best, Torsner teaches a binary determination that a stall condition exists or does not exist. Plainly such a binary determination does not constitute a probabilistic characterization of the likelihood of a stall occurring – inherently a range of values. Nor does Torsner provide any other teaching of a probability determination as to the likelihood of a stall condition occurring

The Applicant further submits there Torsner fails to teach the further limitation of independent claim 1 respecting the transmittal of a flush command to the receiver for the purpose of terminating the stall condition. The Office Action asserts that this limitation is taught be a portion of Torsner that teaches the termination of the stall condition upon the missing data not being received by the expiration of a timer operated at the receiver. Not only is such a receiver-based timer as a basis for terminating a stall condition part of the prior art already addressed by the Applicant in the background portion of his application, such a receiver-based timer operation cannot possibly be construed as equivalent to a flush command transmitted to the receiver, necessarily from a source apart from the receiver.

.In spite of his strong belief that Torsner fails to teach the limitations of his present claim 1, the Applicant has further amended claim 1 in an effort to further clarify the distinctions described herein over Torsner In view of the amendments to claim 1, and the showing above as to the absence of an anticipatory teaching by Torsner, the Applicant submits that amended claim 1 is clearly patentable over Torsner. The remaining claims rejected as being anticipated by Torsner all depend, either directly or indirectly from independent claim 1 and thus must also be patentable on the basis of that dependency. Nonetheless, the Applicant respectfully submits that the limitation of dependent claim 4 – estimating a wait time as a function of the determined stall probability – is plainly not taught by Torsner, and that claim is accordingly independently patentable over Torsner. The teaching of Torsner cited by the Office Action as teaching the limitation of claim 4 is solely directed to Torsner's use of a timer at the receiver to terminate a stall condition at timer expiration. Plainly, such a timer-based stall termination has no relationship to a wait time established as a function of a determined stall probability.

Withdrawal of the §102 rejection of claims 1, 3-4 and 10-11 is accordingly respectfully requested.

With respect to the rejection of independent claim 12 as being anticipated by Chao, the Applicant notes that claim 12 has been amended to incorporate the limitation of dependent claim 14 (with cancellation of that claim). Although the Applicant readily acknowledges that dependent claim 14 was also rejected as being anticipated by Chao, he respectfully submits that a reasonable construction of Chao cannot be read to support a teaching by Chao of the feature represented by the limitation of claim 14. The limitation in question is directed to the probability of a stalling condition being determined in relation to a state of at least one system parameter for the wireless system. Applicant respectfully suggests that nothing in the teaching of Chao could reasonably be construed to show or suggest the use of a probability factor in respect to a stalling condition. Moreover, the particular portion of Chao cited by the Office Action as support for the rejection of claim 13 (col. 2, lines 60-63 and col 3, lines 1-30) plainly does not contemplate any such probability factor. The first part of the cited material simply contemplates the operation of a timer at the receiver, much in the manner of the previously cited material from Torsner (and as taught in Applicant's background section as being the standard prior-art approach), to terminate a stall condition at time-out of the timer. The second part of the cited material simply describes the various packet loss or delay scenarios that can lead to the occurrence of a stall condition, substantially the same set of scenarios described in Applicant's background section.

In view of the amendment to claim 12 and the showing above that the limitations of the claim as so amended are clearly not shown or suggested by the teaching of Chao, the Applicant submits that amended claim 12 is clearly patentable over Chao. Withdrawal of the §102 rejection of claim 12 is accordingly respectfully requested.

All of the remaining claims rejected as being anticipated by Chao have either been cancelled or depend from independent claim 12, which has been shown to be patentable over Chao, and therefore should be patentable as well based on that dependency. Withdrawal of the §102 rejection of dependent claim 15 is accordingly respectfully requested.
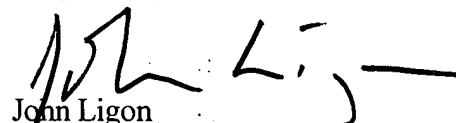
II.   35 U.S.C. §103 Claim Rejections

Dependent claims 5-9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Torsner in view of Watanabe *et al.* (U.S. Patent No. 6,285,662). All of these rejected claims depend, directly or indirectly, from independent claim 1, which was shown above to be patentable over Torsner, and therefore should be patentable as well based on that dependency. Withdrawal of the §103 rejection of dependent claims 5-9 is accordingly respectfully requested.

III.   Conclusion

If the Examiner should feel that the application is not yet in a condition for allowance and that a telephone interview would be useful, he is invited to contact applicants' attorney, John Ligon, at **(908) 582-5294.**

Respectfully submitted,

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Date: August 25, 2008

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